IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1240 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BHARATKUMAR MULJIBHAI VAGHELA

Versus

KRISHNABEN BHARATKUMAR VAGHELA

Appearance:

1. Civil Revision Application No. 1240 of 2001

MR THAKUR FOR RG CHHARA for Petitioner No. 1

MR MP GAUTAM for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 08/04/2002

ORAL JUDGEMENT

Heard Mr. Thakur, who appeared for Mr. Chhara, learned advocate for the petitioner husband and Mr. Gautam, learned advocate for the respondent wife. The petitioner husband has filed this revision application

challenging the order passed by the learned Civil Judge (SD) Mehsana camp at Kalol dated 3rd August, 2002 in an application Ex. 10 filed by the respondent wife under Section 24 of the Hindu Marriage Act on several grounds. During the hearing, I was taken through the order under challenge and the plaint of Hindu Marriage Petition filed by the petitioner husband against the respondent wife in the court of the learned Civil Judge (SD) Kalol under Section 13-B of the Hindu Marriage Act being H.M.P. No. 45 of 2000. As found from the petition for divorce filed by the petitioner husband, the marriage was solemnized between the petitioner and the respondent wife on 15.1.1995 and both the divorcee were remarried. I am not referring to the details about the said petition, wherein, the petitioner husband has sought for divorce against the respondent wife under Section 13 of the Hindu Marriage Act. In the said suit, the respondent wife had moved an application below Ex.10 and prayed for interim alimony by highlighting that though she is serving, her income is meager and as her husband is working as a teacher as well as is doing private tuition, his income is more than Rs.40,000/- p.m. and she has prayed for interim alimony at the rate of Rs.5000/- p.m. to enable her to leave as per the status of her husband and as the petition is filed for divorce by the husband, she has prayed that she may be granted Rs.10,000/- towards costs of litigation. The said application was supported with an affidavit of respondent wife dated 9th October, 2000. The petitioner husband has resisted the said application and it is his case that his wife is working as a female worker at Family Centre at Kalol and she is in a position to maintain herself and the case put forward by the wife in respect of his income was denied and prayed for dismissal of the application.

2. The learned trial Judge after considering the case put forward by the parties had partly allowed the application, considering the admission made by the petitioner husband that he is earning Rs.7000/- p.m. The learned trial Judge has also observed that the applicant wife has not produced any evidence regarding the income of husband from tuition nor she has produced any salary details about her income while working as a nurse. It is not in dispute that the respondent wife is working as female worker and she has income while working at the same time.

3. The learned Judge has on considering the admission made by the petitioner husband that he is earning Rs.7000/- p.m. has allowed the petition by granting interim alimony in favour of the respondent wife

by awarding Rs.1000/- p.m. against the claim made by her of Rs.5000/- and the was further awarded Rs.2000/towards costs of the litigation.

4. Considering the submission of Mr. Thakur and considering the provisions of Section 24 of the Act, it is difficult of this court to accept the contention of Mr. Thakur that the learned trial Judge has committed error in granting interim alimony and I am of the view that this is not a matter wherein this court is required to entertain the revision application while exercising my revisional jurisdiction under Section 115 of the CPC. Hence there is no substance in this Revision Application. Revision Application is accordingly rejected. Rule is discharged. Interim relief granted earlier stands vacated forthwith. The petitioner to pay costs to the respondent wife.

(D.K.Trivedi, J.)
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